

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1430 be amended to read as follows:

- 1 Page 3, between lines 1 and 2, begin a new paragraph and insert the
- 2 following:
- 3 "SECTION 4. IC 3-6-4.5 IS ADDED TO THE INDIANA CODE AS
- 4 A **NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
- 5 **1, 2003]**
- 6 **Chapter 4.5. Administrative Complaints Concerning**
- 7 **Requirements Under Title III of the Help America Vote Act of**
- 8 **2002**
- 9 **Sec. 1. This chapter is effective January 1, 2004.**
- 10 **Sec. 2. As used in this chapter, "Title III" refers to Title III of**
- 11 **the Help America Vote Act of 2002 (42 U.S.C. 15481 through**
- 12 **15485).**
- 13 **Sec. 3. As required by 42 U.S.C. 15512, this chapter establishes**
- 14 **the state based administrative complaint procedures to remedy**
- 15 **grievances concerning uniform and nondiscriminatory election**
- 16 **technology and administrative requirements under Title III.**
- 17 **Sec. 4. The commission shall make the final determination and**
- 18 **issue a report regarding the complaint not later than ninety (90)**
- 19 **days after the complaint is filed.**
- 20 **Sec. 5. If the commission fails to make the final determination**
- 21 **regarding the complaint before the deadline specified by section 4**
- 22 **of this chapter, the complaint described in section 3 of this chapter**
- 23 **shall be resolved by the secretary of state.**
- 24 **Sec. 6. As provided by 42 U.S.C. 15512, the record and other**
- 25 **materials from any proceedings conducted by the commission shall**
- 26 **be made available for use by the secretary of state.**
- 27 **Sec. 7. The secretary of state may file a civil action seeking**
- 28 **declaratory or injunctive relief as part of the resolution of the**
- 29 **complaint under this chapter. The action may be filed before or**
- 30 **after the filing of the report required by section 8 of this chapter.**
- 31 **Sec. 8. The secretary of state shall file a report with the election**

1 division setting forth the resolution of the complaint. The report
2 must specify the following:

3 (1) Whether a violation of Title III has occurred or was about
4 to occur when the complaint was filed.

5 (2) The appropriate remedy to correct any violation.

6 (3) Whether providing the remedy would require additional
7 or amended Indiana legislation or a civil action for
8 declaratory or injunctive relief.

9 (4) Any other information or recommendations necessary to
10 fully provide any appropriate relief under this chapter."

11 Page 28, between lines 4 and 5, begin a new paragraph and insert:
12 "SECTION 41. IC 3-11-6.5-3, AS ADDED BY P.L.239-2001,
13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 3. To receive reimbursement under this
15 chapter, a county must make an application to the ~~budget agency not~~
16 ~~later than January 1, 2003;~~ **secretary of state** in the form required by
17 the ~~budget agency;~~ **secretary of state. The secretary of state shall**
18 **review the application and make a recommendation to the budget**
19 **committee regarding the application.**

20 SECTION 42. IC 3-11-6.5-4, AS ADDED BY P.L.239-2001,
21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 4. The budget agency, after review by the
23 budget committee, shall approve a county's application for
24 reimbursement under this chapter if the county's application
25 demonstrates to the budget agency either of the following:

26 (1) That the county will:

27 (A) purchase;

28 (B) lease-purchase; or

29 (C) lease;

30 a new voting system or an upgrade or expansion of an existing
31 voting system from a vendor that has a quantity purchase
32 agreement awarded under section 1 of this chapter.

33 (2) The county purchased a new voting system or an upgrade or
34 expansion of the county's existing voting system after ~~January 1,~~
35 ~~1998;~~ **November 5, 1996,** and before ~~July 1, 2001;~~ **January 1,**
36 **2001, that would not qualify for reimbursement from federal**
37 **funds received under the federal Help America Vote Act of**
38 **2002 (42 U.S.C. 15301 through 15545),** and the new voting
39 system or upgrade or expansion of the county's existing voting
40 system enhanced all of the following:

41 (A) Reliability of the county's voting system.

42 (B) Efficiency of the county's voting system.

43 (C) Ease of use of the county's voting system by voters.

44 (D) Public confidence in the county's voting system.

45 SECTION 43. IC 3-11-6.5-4.5 IS ADDED TO THE INDIANA
46 CODE AS A NEW SECTION TO READ AS FOLLOWS
47 [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) Payment of money from**

the voting system improvement fund is subject to:

- (1) the availability of money in the fund;
- (2) the requirements of this chapter; and
- (3) the provisions of the federal Help America Vote Act of 2002 (42 U.S.C. 15301 through 15545) (HAVA), including the reduction of the multiplier set forth in Section 102 of HAVA for the reimbursement of counties with precincts that used lever machines or punch card voting systems at the November 7, 2000, general election.

(b) The secretary of state may provide a combination of reimbursements and voting system distributions to a county under this chapter."

Page 33, between lines 39 and 40, begin a new paragraph and insert:
 "SECTION 60. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the **county election board for delivery by the** prosecuting attorney for the county ~~who~~ **to the grand jury under section 2 of this chapter. The prosecuting attorney for the county** shall:

- (1) proceed as if the affidavit had been made before the prosecuting attorney; and
- (2) ~~notify~~ **ensure that the grand jury notifies** the NVRA official **under section 2 of this chapter** if a violation of NVRA appears to have occurred.

SECTION 61. IC 3-14-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each member shall endorse that member's name on the back of the bag or envelope.

(b) The inspector and judge of the opposite political party shall deliver the ~~sealed~~ bag or envelope to the county election board. ~~whose duty it is to~~ **The county election board shall do the following:**

- (1) **Remove the affidavits from the bag or envelope.**
- (2) **Mail a copy of each affidavit to the secretary of state.**
- (3) **Replace the affidavits within the bag or envelope.**
- (4) **Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.**
- (5) **Carefully preserve it the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the**

- 1 foreman of the grand jury when next in session.
- 2 (c) The grand jury shall inquire into the truth or falsity of the
- 3 affidavits, and the court having jurisdiction over the grand jury shall
- 4 specially charge the jury as to its duties under this section.
- 5 (d) The grand jury shall file a report of the result of its inquiry with:
- 6 (1) the court; and
- 7 (2) the NVRA official if a violation of NVRA appears to have
- 8 occurred."
- 9 Page 38, after line 22, begin a new paragraph and insert:
- 10 "SECTION 65. **An emergency is declared for this act.**".
- 11 Renumber all SECTIONS consecutively.
- (Reference is to EHB 1430 as printed April 2, 2003.)

Senator LAWSON C